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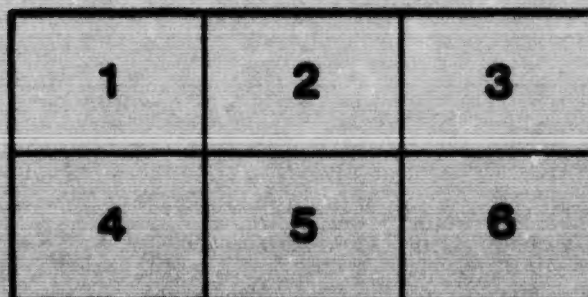
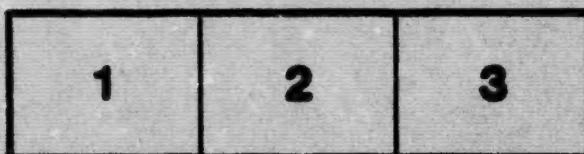
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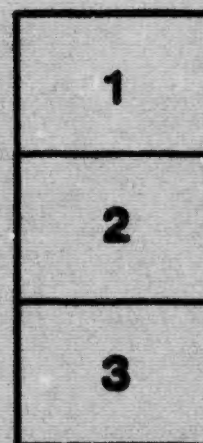
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# Atholstan-Tarte Law Suit

CANADA

Province of Quebec,  
District of Montreal.  
No. 3966

SUPERIOR COURT

LORD ATHOLSTAN

Plaintiff

—vs.—

LOUIS JOSEPH TARTE, et al,

Defendants.

## PLAINTIFF'S DECLARATION

*(Extract from Official Court Records:)*

On the 5th day of November, 1907, Plaintiff was approached by Defendants who solicited Plaintiff's financial aid to help them out of their difficulties and in connection therewith one of the Defendants, L. J. Tarte, wrote Plaintiff as follows:—

"Montreal, 5th November, 1907.

"Dear Mr. Graham:—

"I want to confide to you some serious matters, knowing that you, as an experienced man, will, at least sympathize with us.

"Our building has landed us in financial troubles. We started with it on promise that an insurance company would finance it, but we learned, too late, that the company was indisposed to make advances until the building was completed.

"This disappointment has kept us in hot water for the past year. The time of myself and brother, instead of being devoted to the development of the business, has been taken up with money worries, to the injury of the business; and to add to our troubles, the life and spirit has simply been crushed out of our poor father, who feels the state of affairs most keenly.

"If you could see your way to help, and to get some of your friends to s.d., you could pull us through easily. Our books are open for your inspection at any time.

"Yours truly,

(Signed) "L. J. TARTE."

On the 8th day of November, 1907, Plaintiff replied as follows:—

"Montreal, 8th November, 1907.

"Dear Mr. Tarte:—

"I am extremely sorry to hear of your difficulties. Don't be discouraged by them. Troubles of the kind are essential to success. I know of no successful paper that has not had just the kind of experience you are having. The Star had to contend with more serious worries because it never had any capital, and became immersed in debt when its circulation

1907

(6)

was one quarter of what yours is. I feel the Star's success is due, in a large measure, to the serious troubles it had to overcome.

"I am really withdrawing from business activity, intending to devote my time to travel, so it is not possible to give to your matters any time. If a loan of \$20,000 will enable you to pull through, I daresay I could let you have it.

"Yours truly,

(Signed) "HUGH GRAHAM."

On the 23rd November, 1907, Defendants became very urgent in their supplications for help, the said L. J. Tarte writing Plaintiffs as follows:—

"Dear Mr. Graham:—

"Montreal, 23rd November, 1907.

"Since the receipt of yours of the 8th our troubles have become more serious. Our creditors are threatening demands of assignment. One demand of such a kind would throw us into the hands of our bond holders, who, according to the Trust Deed would have to sell the paper, building, and all assets, by public auction. This publicity would kill the papers. Advertisers would shun them, and the very name of insolvency would give La Patrie a staggering blow. I appeal to you, Mr. Graham, to reconsider your decision. You are the one man in Canada who can pull us out. You have been successful in every venture. You know a new paper could not get the circulation that La Patrie has by an expenditure of \$100,000. Isn't it a pity to see it threatened with destruction?

"In regard to the financial depression of the past few months, La Patrie has taken a patriotic stand helping, in every way to allay public fears. La Patrie could have probably doubled its circulation by following the example of some of the American newspapers, circulating rumors and casting suspicion on our institutions. It is doubtful if any bank in Canada could withstand the kind of journalism that has brought some of the American papers into prominence. Does La Patrie not deserve a helping hand? It will pay you in every way to save it, and with hard work and your valuable aid and the aid of your advertising connections, we would, in a few years have a property worth a million dollars.

"Our father is still very poorly. I wonder sometimes if he is going to get better. Let me implore you, Mr. Graham, to take an interest. Neither you nor any friend who helps will ever have cause to regret it.

"Yours truly,

(Signed) "L. J. TARTE."

On the 3rd day of December, 1907, Plaintiff replied in the following terms:—

"Montreal, 3rd December, 1907.

"Dear Mr. Tarte:—

"I cannot reply to yours of the 23rd November with any definite promise, but I will send an auditor to look into your affairs.

"Please have statements of liabilities, circulation and advertising (the latter two for a period of say a month), fully attested.

"If I should be able to aid you to any material extent, I should want to know that the paper is to uphold British connection, to promote good feeling between the races and to be independent of party domination, going in for the betterment of our city as regards streets, better architecture, a better water system; conservation of our forests in the Province, better country roads, and laws to stamp out electoral corruption.

"Yours truly,

(Signed) "HUGH GRAHAM.

"L. J. Tarte, Esq.,  
Montreal."

To this letter the said L. J. Tarte replied on the 4th day of December, 1907, as follows:—

"Montreal, 4th December, 1907.

"Dear Mr. Graham:—

"The statements will be prepared, and ready for your auditor.

"As to the policy, I am quite willing to enter into such an agreement.

"You will have to act quickly as our creditors are very insistent, and any hour someone might precipitate the final coup.

"Yours truly,

(Signed) "L. J. TARTE."

Whereupon Plaintiff instructed his representatives to look into the matter, being desirous of assisting Defendants if it were in any way possible to do so.

On the 24th day of December, 1907, the financial affairs of the Defendants having become exceedingly critical, the said L. J. Tarte wrote Plaintiff the following letter:—

"Montreal, December 24th, 1907.

"Dear Mr. Graham:—

"Our fate may be settled in a few hours. If you will read the Trust Deed, of which I send you copy, you will see the Bondholders may walk in, take possession, and advertise the whole thing by auction. A private settlement will then be impossible, because illegal.

"Both my brothers and myself may be on the street any moment. Surely there is some relief somewhere, if we knew where.

"Mr. Graham, you yourself can save the situation with \$200,000, and you will live to say there was more satisfaction in that investment than any you ever made. La Patrie may fall into bad hands. You will all say it is a pity, when it is too late.

"Yours truly,

(Signed) "L. J. TARTE."

In view of the representations made by Defendants and upon their urgent solicitations and request, Plaintiff agreed to endeavor

to find the necessary financial assistance to tide them over difficulties and prevent their bankruptcy, and an agreement entered into dated the 24th day of December, 1907, between Plaintiff and Defendant s, L. J. Tarte and Eugene Tarte, and La P Publishing Company, wherein it was set up that unless the defendants procured further financial assistance for said Company would be obliged to abandon its property to the Trustees for bondholders, and Defendants and the Company would thereby suffer a certain loss and damage.

As set out in the schedule attached to the said agreement therein referred to, Defendants were at that time, indebted to nearly three hundred (300) creditors in an aggregate amount exceeding \$450,000, including \$119,000 of outstanding bonds.

Pursuant to the said agreement and in accordance with Plaintiff's desire to save Defendants from insolvency, Plaintiff exercised all his weight and influence to effect settlements with Defendants' creditors, and in response to Plaintiff's enquiry as to whether Defendants were satisfied with the efforts which were being made and desired to continue the said agreement, Defendants, L. J. Tarte and Eugene Tarte, wrote Plaintiff on the 17th day of January, 1908, in the following terms:—

"Hugh Graham, Esq.,  
"Montreal.

"January 17th, 1908.

"Dear Sir:—

"In answer to your repeated questions as to whether we are still of the opinion that the provisions of the agreement of the 24th December last, and continued from time to time, are the best that can be procured or devised for the saving of our papers from ruin, and ourselves from insolvency, we are more than ever in favor of the consummation of that agreement. You have shown that you are the only man of all those whom we have asked to help us who has proposed anything of a practical nature. Your kindness to us in the interim in helping us to keep out of bankruptcy, without any consideration for yourself, prompts us to say, that, should the agreement go into effect it will be our constant aim to do everything in our power to improve the business. You and your friends may depend absolutely on the good faith of all statements regarding the business filed with the agreement and we will keep faith in every particular. Your wishes will be respected in all matters, knowing, as we do, that your desire is to help us to save the property.

"Yours truly,

(Signed) "L. J. TARTE."

"EUGENE TARTE."

On the 27th January, 1908, Defendants wrote Plaintiff certifying that Plaintiff's undertakings had been fully performed, and that the

agreement of the 24th December should be treated as fully effective. Defendants' letter reading as follows:—

"Hugh Graham, Esq.,  
"Montreal.

"Montreal, 27th January, 1908.

"Dear Sir:—

"We have your letter of the ..... January, 1908, informing us that you have succeeded in financing the obligations of the Company, as provided in our agreement of the 24th December, 1907. These have also been arranged to our satisfaction. Consequently, the agreement in question will be fully effective from this date.

"Yours truly,

(Signed) "L. J. TARTE,  
"EUGENE TARTE,  
"LA PATRIE PUB. CO.

(Signed) "L. J. TARTE,  
"President and Mgr."

In further assurance of the Defendants' satisfaction and gratitude, Defendants wrote Plaintiff under date the 26th day of February, 1908, in the following terms:—

"Mr. Hugh Graham,  
"Montreal.

"Montreal, February 26th, 1908.

"Dear Mr. Graham:—

"We note the fact that you prefer not to take our offer to let you have your bonds at a discount. The fact that you prefer to be on exactly the same basis as other friends who have aided certainly is magnanimous considering the immense work you have done and we thank you for your kindness.

"You have made a splendid arrangement with the Goss Company and by thus saving us seven thousand dollars it makes about one hundred thousand dollars you have saved us taking into account the deductions by various creditors made through your instrumentality. You have done everything promised in our agreement and vastly more than you promised. In fact you have retrieved 'La Patrie' and whatever our future may be we owe to you.

"Yours very truly,

(Signed) "L. J. TARTE,  
"EUGENE TARTE,

Defendants continued to run behind and from time to time asked for further assistance from Plaintiff, and on the 31st day of December, 1908, wrote Plaintiff as follows:—

"Sir Hugh Graham,  
"City.

"Montreal, December 31st, 1908.

"Dear Sir:—

"In view of the fact that you have much more than fulfilled all your promises and obligations under our agreement we hesitate to ask you to still further help us. The interest

on our bonds is due on Saturday, and we are short eight thousand dollars to meet it. If you will advance us the money, taking \$24,000 in second mortgage bonds as security we will arrange so that the margin of \$4,000 on the eleven bonds in the hands of the Montreal Trust Company to secure mortgage is paid to you when released, also the margin of \$1,250 on the four bonds upon which the 'Star' has advanced \$2,750.

(Sgd.) LA CIE DE PUBLICATION DE LA  
PATRIE LTEE.

(Signed) "L. J. TARTE,  
President.

(Signed) "L. J. TARTE."  
"EUGENE TARTE,

From time to time subsequent to the said period, Plaintiff rectly or through the Montreal Star Publishing Company, advanced monies to Defendants whenever an emergency arose until the year 1914.

On the 27th February, 1915, Defendants wrote Plaintiff in the following terms:—

"Sir Hugh Graham,  
"Montreal,

"Montreal, February 27th, 1915.

"Dear Sir Hugh:—

"We regret the annoyance caused you by the service of notarial tender of monies in connection with La Patrie on the 4th of December last, in which it was erroneously stated the sum of \$50,000 had been paid to you on our behalf by another party.

"We misunderstood the facts and apologize to you for the mistake.

"Yours truly,

(Signed) "L. J. TARTE,  
"EUGENE TARTE."

Upon receiving Defendants' apology and the acknowledgement of their error, Plaintiff, at Defendants' request, consented to allow them to exercise the right given them to redeem their said stock on the 11th day of December, 1914, notwithstanding the fact that the right to redeem on the said date had expired, whereupon Defendants wrote Plaintiff on February 27th 1915 acknowledging their obligation and thanking him for his consideration in the following terms:

"Sir Hugh Graham,  
"Montreal,

"Montreal, February 27th, 1915.

"Dear Sir Hugh:—

"We thank you for all your kindness to us and 'La Patrie' during the seven years that have elapsed since we and our father appealed to you to help 'La Patrie' out of its financial difficulties.

"You accomplished for us what we felt could not have been done by any other person, and you saved our property for us. We recall the fact that you had a right to our second bonds at 65, and yet you got us par for them without any profit to yourself. We recall the fact that you had a right to pay a commission for other bonds and yet you managed to float over One Hundred Thousand Dollars at par, and we had to pay commission on only a small lot of \$10,000, or \$15,000. We recall the fact that you procured an abatement of some of our large obligations by yourself becoming security out of which you made no profit and now we feel further indebted to you for reviving our rights which lapsed on the 14th of December last.

"Yours truly,

(Signed) "L. J. TARTE,  
"EUGENE TARTE,

Defendants, representing to Plaintiff that they were unable to secure the additional sum of \$50,000.00 required to supplement their tender of December, 1914, Plaintiff agreed to accept their notes for the difference.

The two notes therein referred to and in respect of which Defendants are still indebted to Plaintiff are as follows:

(a) Promissory Note dated at Montreal, 13th day of March, 1915, for the sum of \$16,250, payable one year after date to the order of Plaintiff at the Royal Bank of Canada, St. James street, Montreal, signed by Defendants Louis Joseph Tarte and Eugene Tarte, and endorsed by Defendant, La Patrie Publishing Company Limited, the said note containing as stipulation that the amount thereof would bear interest at current bank rates payable every three months—the whole as more fully appears from said note herewith filed as Plaintiff's exhibit No. 4.

(b) Promissory Note dated at Montreal, 13th day of March, 1915, for the sum of \$33,750, payable one year after date to the order of Plaintiff at the Royal Bank of Canada, St. James Street, Montreal, signed by the Defendant La Patrie Publishing Company, Limited, and endorsed by the Defendant Louis Joseph Tarte, the said note containing a stipulation that the amount thereof would bear interest at current Bank rates, payable every three months, the whole as appears by the said note herewith filed as Plaintiff's exhibit No. 5.

The said two notes were duly presented for payment on the 16th day of March, 1916, due date thereof, at the Royal Bank of Canada, St. James Street, Montreal, being the place of payment stipulated in the said notes and were dishonored, whereupon the said notes were duly protested for non-payment and notice of protest given to Defendants, as appears by copies of the said protests herewith filed as Plaintiff's exhibits Nos. 6 and 7.

Although the Defendants failed to pay the said notes on their due dates they nevertheless paid the interest on the same quarterly as therein stipulated, including the instalment of interest which

fell due on the 16th day of March, 1916, and later on the 2nd day of July, 1916, paid the coupons on the bonds held by Plaintiff as collateral security for the said notes, which coupons so paid amounted to the sum of \$1,500.00 and which were duly applied to the credit of Defendants' account.

Plaintiff has at all times been ready and willing to return the bonds of La Patrie Publishing Company, of a par value of \$50.00 held by him as collateral security upon payment of the amount claimed by Defendants, and Plaintiff hereby renews his declaration of his willingness to surrender the same upon payment in satisfaction of his claim.

Attorneys for Plaintiff:  
Brown, Montgomery and McElisbael.



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